

ASSEMBLY BILL

No. 224

Introduced by Assembly Member Negrete McLeod

February 3, 2005

An act to amend Sections 20352, 20638, 31453, 31461.3, 31700, 31831, 31831.2, 31833, 31834, 31835, and 31837 of, and to repeal Sections 20355, 20356, 31835.02, 31837.1, 31840.4, 31840.5, 31840.6, and 31840.7 of, the Government Code, relating to county employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 224, as introduced, Negrete McLeod. County employees' retirement: reciprocity: actuarial valuation.

(1) Existing law provides for reciprocity of retirement benefits, as specified, for a member of the Public Employees' Retirement System, a system established under the County Employees Retirement Law of 1937, or other specified public retirement systems, who retires concurrently under 2 of those retirement systems, if the period of time between the member's discontinuance of employment subject to the Public Employees' Retirement System or a retirement system established under the County Employees Retirement Law of 1937 and his or her entry into employment subject to the other retirement system does not exceed 6 months or, in some cases, one year.

This bill would provide for reciprocity of retirement benefits for those members if the period of time between the member's discontinuance of employment subject to the Public Employees' Retirement System or a retirement system established under the County Employees Retirement Law of 1937 and his or her entry into employment subject to the other retirement system does not exceed 36 months.

(2) Existing law requires an actuarial valuation to be conducted at least every 3 years with respect to any retirement system established under the County Employees Retirement Law of 1937. Following that valuation, the board of retirement of the system is required to recommend to the county board of supervisors any change in interest rates, contributions rates, or appropriations that are necessary. The board of retirement is required to make those recommendations at least 45 days prior to the beginning of the succeeding fiscal year.

This bill would require the board of retirement to make those recommendations at least 60 days prior to the beginning of the succeeding fiscal year.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 20352 of the Government Code is
2 amended to read:

3 20352. The provisions of this part extending rights to a
4 member of this system or subjecting him or her to any limitation,
5 by reason of his or her membership in a county retirement system
6 shall also apply to members who terminated state employment
7 and became an employee of a fire district within ~~six~~ 36 months ~~of~~
8 *after* the termination, and who were employees of the district at
9 the time that the district became subject to the county retirement
10 system.

11 ~~This section shall only be operative with respect to a county~~
12 ~~where the board of supervisors has made Section 31840.5~~
13 ~~applicable in that county.~~

14 SEC. 2. Section 20355 of the Government Code is repealed.

15 ~~20355. Wherever in this part the rights of a member, because~~
16 ~~of membership in another retirement system, are conditioned~~
17 ~~upon employment within 90 days of termination of membership~~
18 ~~in this system or another retirement system, with respect to that~~
19 ~~employment that occurs on and after January 1, 1976, the period~~
20 ~~shall be six months rather than 90 days.~~

21 ~~This section shall also be applicable to members who were~~
22 ~~permanent employees of the state who were laid off because of a~~
23 ~~reduction in work force and whose break in service between~~

1 ~~retirement systems occurred prior to January 1, 1976, but not~~
2 ~~before April 1, 1970.~~

3 SEC. 3. Section 20356 of the Government Code is repealed.

4 ~~20356. Whenever in this part the rights of a local member,~~
5 ~~because of membership in another retirement system, are~~
6 ~~conditioned upon employment within six months of termination~~
7 ~~of membership in this system or another retirement system, the~~
8 ~~period shall be one year rather than six months if the local~~
9 ~~member was an elective officer and becomes a member of~~
10 ~~another retirement system upon commencement of service in~~
11 ~~another elective office on and after January 1, 1977.~~

12 ~~This section shall not apply unless the other employer in a~~
13 ~~reciprocal system elected a similar provision, nor shall it apply to~~
14 ~~any contracting agency nor to the employees of any contracting~~
15 ~~agency unless that agency elected to be subject to the provisions~~
16 ~~of this section in its contract with the board on or before~~
17 ~~December 31, 2001.~~

18 SEC. 4. Section 20638 of the Government Code is amended
19 to read:

20 20638. The average monthly salary during any period of
21 service as a member of a county retirement system shall be
22 considered compensation earnable by a member of this system
23 for purposes of computing final compensation for the member
24 provided:

25 (a) ~~(1)~~ Entry into employment in which he or she became a
26 member in one system occurred ~~on or after October 1, 1957, and~~
27 ~~within 90 days of 36 months after~~ discontinuance of employment
28 as a member of the other system.

29 ~~(2) This subdivision shall not deny the benefit of this section~~
30 ~~to any person retiring after October 1, 1963, who entered~~
31 ~~membership prior to October 1, 1957, if he or she entered the~~
32 ~~employment in which he or she became a member within 90 days~~
33 ~~of termination of employment in which he or she was a member~~
34 ~~of the other system, and he or she became a member within seven~~
35 ~~months of entry into employment, or, if an employee of a district~~
36 ~~as defined in Section 31468, became a member at the time the~~
37 ~~district was included in a county retirement system.~~

38 (b) He or she retires concurrently under both systems and is
39 credited with the period of service under the county system at the
40 time of retirement.

1 SEC. 5. Section 31453 of the Government Code is amended
2 to read:

3 31453. An actuarial valuation shall be made within one year
4 after the date on which any system established under this chapter
5 becomes effective, and thereafter at intervals not to exceed three
6 years. The valuation shall be conducted under the supervision of
7 an actuary and shall cover the mortality, service, and
8 compensation experience of the members and beneficiaries, and
9 shall evaluate the assets and liabilities of the retirement fund.
10 Upon the basis of the investigation, valuation, and
11 recommendation of the actuary, the board shall, at least ~~45~~ 60
12 days prior to the beginning of the succeeding fiscal year,
13 recommend to the board of supervisors ~~such~~ any changes in the
14 rates of interest, in the rates of contributions of members, and in
15 county and district appropriations ~~as that~~ are necessary. With
16 respect to the rates of interest to be credited to members and to
17 the county or district, the board may, in its sound discretion,
18 recommend a rate ~~which~~ that is higher or lower than the interest
19 assumption rate established by the actuarial survey. No
20 adjustment ~~shall~~ may be included in the new rates for time prior
21 to the effective date of the revision.

22 SEC. 6. Section 31461.3 of the Government Code is amended
23 to read:

24 31461.3. ~~(a)~~ The average compensation during any period of
25 service as a member of the Public Employees' Retirement
26 System, a member of a retirement system established under this
27 chapter in another county, a member of the State Teachers'
28 Retirement System Plan, or a member of a retirement system of
29 any other public agency of the state that has established
30 reciprocity with the Public Employees' Retirement System
31 subject to the conditions of Section 31840.2 shall be considered
32 compensation earnable by a member for purposes of computing
33 final compensation for that member provided:

34 ~~(1)–~~

35 (a) The period intervening between active memberships in the
36 respective systems does not exceed ~~90 days, or six~~ 36 months if
37 ~~Section 31840.4 applies.~~

38 ~~(2) He or she retires concurrently under both systems and is~~
39 ~~credited with that period of service under the other system at the~~
40 ~~time of retirement.~~

~~(b) This section shall be applied retroactively under this chapter in favor of any member whose membership in the Public Employees' Retirement System or in a retirement system established under this chapter in any county terminated prior to October 1, 1957, provided that he or she was eligible to and elected deferred retirement therein within 90 days after eligibility for reciprocity, the period intervening between active memberships in the respective systems did not exceed 90 days, or six months if Section 31840.4 applies, and he or she retires concurrently under both systems and is credited with that period of service under the other system at the time of retirement. The limitation of the 90-day or six-month period between the active membership in the two retirement systems shall not apply to an employee who entered the employment in which he or she became a member of the State Employees' Retirement System prior to July 18, 1961; provided he or she entered that employment within 90 days, or six months if Section 31840.4 applies, after the termination of employment in the county system, whether that employment is with the state or with a county, a city, or other public agency that contracts with the Public Employees' Retirement System, the State Teachers' Retirement System, or a retirement system of any other public agency of the state that has established reciprocity with the Public Employees' Retirement System subject to the conditions of Section 31840.2.~~

(b) He or she retires concurrently under both systems and is credited with that period of service under the other system at the time of retirement.

SEC. 7. Section 31700 of the Government Code is amended to read:

31700. (a) Any member, whether over or under the minimum age of voluntary service retirement, who leaves county service after completing five years of service or who leaves county service and within 90 days, or six 36 months if Section 31840.4 applies, becomes a member of the Public Employees' Retirement System, a retirement system established under this chapter in another county, the State Teachers' Retirement System Plan, or a retirement system of any other public agency of the state that has established reciprocity with the Public Employees' Retirement System subject to the conditions of Section 31840.2, may elect in

1 writing, within 90 days after establishing eligibility for
2 reciprocity, to leave his or her accumulated contributions in the
3 retirement fund and be granted a deferred retirement allowance to
4 become effective either:

5 (1) Upon the option of the member, at any time at which he or
6 she could have retired had he or she remained in county service
7 in a full-time position.

8 (2) Not later than the first day of the month following that in
9 which he or she attains the applicable compulsory retirement age,
10 if any.

11 (b) Any member who is eligible to be granted a deferred
12 retirement allowance under subdivision (a) because he or she has
13 completed five years of service but who fails to so elect, shall be
14 deemed to have elected a deferred retirement.

15 (c) Any member, regardless of service, whose retirement
16 system coverage ceases but who does not terminate employment
17 shall leave his or her accumulated contributions in the retirement
18 fund, and interest shall continue to be credited pursuant to
19 Section 31591, until the member retires or terminates
20 employment.

21 SEC. 8. Section 31831 of the Government Code is amended
22 to read:

23 31831. Any member, whether over or under the minimum age
24 of service retirement, who leaves county service and within ~~90~~
25 ~~days or six~~ 36 months if ~~Section 31840.4 applies~~ thereafter
26 becomes a member of the Public Employees' Retirement System,
27 a retirement system established under this chapter in another
28 county, a member of the State Teachers' Retirement System
29 Plan, or a member of a retirement system of any other public
30 agency of the state that has established reciprocity with the
31 Public Employees' Retirement System subject to the conditions
32 of Section 31840.2, regardless of the amount of county service,
33 may elect deferred retirement pursuant to Article 9 of this
34 chapter, except that he or she may not, after that election, rescind
35 the election or withdraw any of his or her accumulated
36 contributions while a member of ~~such~~ the other system.

37 SEC. 9. Section 31831.2 of the Government Code is amended
38 to read:

39 31831.2. (a) Any member who left county or district service
40 on or before December 31, 1974, and became a member of a

1 retirement system established under this chapter in another
2 county or of the Public Employees' Retirement System, who did
3 not elect to, or was not eligible to, leave his *or her* contributions
4 on deposit pursuant to Article 9 (commencing with Section
5 31700) may now elect to leave his *or her* accumulated
6 contributions on deposit pursuant to Article 9 (commencing with
7 Section 31700) by redepositing in the retirement fund of the
8 county or district he *or she* left the amount of accumulated
9 contributions and interest he *or she* withdrew from ~~such the~~
10 retirement fund plus regular interest thereon from date of
11 separation.

12 (b) Any ~~such~~ member whose accumulated contributions are on
13 deposit as provided in this section and any other member who
14 left county or district service on or before December 31, 1974,
15 who became a member of a retirement system established under
16 this chapter in another county or of the Public Employees'
17 Retirement System and who elected to leave his *or her*
18 accumulated contributions on deposit pursuant to Article 9
19 (commencing with Section 31700) shall be eligible for the
20 benefits provided in this article, and for purposes of ~~such those~~
21 benefits shall be deemed to have entered membership in ~~such the~~
22 other system within ~~90 days, or six~~ 36 months if ~~Section 31840.4~~
23 ~~applies, of his~~ after his *or her* separation from county or district
24 employment. The deferred retirement allowance for ~~such that~~
25 member shall be determined in accordance with the provisions of
26 this chapter applicable to members retiring directly from county
27 employment on the date of his *or her* retirement. Any member
28 who qualifies for a reduced age at entry pursuant to this section
29 shall be entitled to use ~~such that~~ age only from and after the date
30 he *or her* completes the redeposit as provided in this section or, if
31 he *or she* elected to leave his *or her* accumulated contributions
32 on deposit pursuant to Article 9 (commencing with Section
33 31700), from and after the date he *or she* notifies the board in
34 writing that he *or she* desires the benefits of this section. This
35 section shall not apply to members who are retired or who are not
36 in service of an employer making him *or her* a member of a
37 retirement system established under this chapter or of the Public
38 Employees' Retirement System.

39 (c) Unless this chapter expressly provides to the contrary, the
40 retirement allowance received by a member pursuant to this

1 section shall be calculated based upon the laws pertaining to the
2 retirement system of ~~such~~ *the* district or county as of the date of
3 retirement and not the laws pertaining to ~~such~~ *the* system as of
4 the date the member first left county or district service.

5 (d) This section shall not be applicable to any member
6 entering service after December 31, 1979.

7 (e) This section shall apply only in a county of the first class,
8 as established by Sections 28020 and 28022 but shall not be
9 operative in a county until adopted by resolution of the board of
10 supervisors.

11 SEC. 10. Section 31833 of the Government Code is amended
12 to read:

13 31833. For the purpose of this article and Articles 6 and 6.8 of
14 this chapter, age at time of entrance into the retirement system
15 for a person who enters within ~~90 days, or six~~ 36 months if
16 ~~Section 31840.4 applies, of~~ *after* last rendering service as a
17 member of the Public Employees' Retirement System, another
18 retirement system established under this chapter, the State
19 Teachers' Retirement ~~System~~ *Plan*, or a retirement system of any
20 other public agency of the state that has established reciprocity
21 with the Public Employees' Retirement System subject to the
22 conditions of Section 31840.2, and who retains his *or her*
23 membership in ~~such~~ *the* other system or systems, shall be his *or*
24 *her* age at entry into the first ~~such~~ other system.

25 SEC. 11. Section 31834 of the Government Code is amended
26 to read:

27 31834. Notwithstanding Section 31558 and regardless of age
28 at entry into the system in counties subject to the provisions of
29 Section 31676.1 and in counties electing pursuant to Section
30 31695.1, a person shall become a safety member on the first day
31 of the calendar month following his *or her* entrance into service
32 in a position the principal duties of which are defined in Sections
33 31470.2, 31470.4 or 31470.6, if ~~such~~ *the* first day of the calendar
34 month is within ~~90 days, or six~~ 36 months if ~~Section 31840.4~~
35 ~~applies of~~ *after* last rendering active police or fire suppression or
36 lifeguard work as a member of the Public Employees' Retirement
37 System or a retirement system established under this chapter in
38 another county, the State Teachers' Retirement ~~System~~ *Plan*, or a
39 retirement system of any other public agency of the state that has
40 established reciprocity with the Public Employees' Retirement

1 System subject to the conditions of Section 31840.2, and the
2 person retains his *or her* membership in ~~such~~ *that* other system.

3 SEC. 12. Section 31835 of the Government Code is amended
4 to read:

5 31835. (a) The average compensation during any period of
6 service as a member of the Public Employees' Retirement
7 System, a member of the Judges' Retirement System or Judges'
8 Retirement System II, a member of a retirement system
9 established under this chapter in another county, a member of the
10 State Teachers' Retirement ~~System~~ *Plan*, or a member of a
11 retirement system of any other public agency of the state that has
12 established reciprocity with the Public Employees' Retirement
13 System subject to the conditions of Section 31840.2, shall be
14 considered compensation earnable by a member for purposes of
15 computing final compensation for that member provided:

16 (1) The period intervening between active memberships in the
17 respective systems does not exceed ~~90 days, or 6~~ 36 months if
18 ~~Section 31840.4 applies~~. That period shall not include any time
19 during which the member was prohibited by law from becoming
20 a member of the system of another county.

21 Notwithstanding anything in this chapter to the contrary, the
22 ~~90-day or 6-month~~ 36-month restriction referred to in this section
23 or any other provision of this chapter effecting deferred
24 retirement shall not be applicable to any members who left
25 county or district service prior to October 1, 1949, and
26 subsequently redeposited.

27 (2) He or she retires concurrently under both systems and is
28 credited with the period of service under that other system at the
29 time of retirement.

30 (b) The provisions of this section shall be applicable to all
31 members and beneficiaries of the system.

32 SEC. 13. Section 31835.02 of the Government Code is
33 repealed.

34 ~~31835.02. Notwithstanding any other provision of this part,~~
35 ~~Section 31835 shall also apply to any member who was a~~
36 ~~member of a retirement system established under this chapter and~~
37 ~~who subsequently becomes a member of the Public Employees'~~
38 ~~Retirement System, a retirement system established under this~~
39 ~~chapter in another county, the State Teachers' Retirement~~
40 ~~System, or a retirement system of any other public agency of the~~

~~state that has established reciprocity with the Public Employees' Retirement System subject to the conditions of Section 31840.2, providing the period intervening between the periods for which active service was credited does not exceed 90 days, or six months if Section 31840.2 applies, and the member retires concurrently under both systems and is credited with the periods of service at the time of retirement.~~

~~This section shall only be operative in any county of the fourth class as described in Sections 28020 and 28025 if it is adopted by a majority vote of the board of supervisors.~~

SEC. 14. Section 31837 of the Government Code is amended to read:

31837. Any member who elects, pursuant to Section ~~31700~~ ~~and 31832~~ 31700, to leave his *or her* accumulated contributions on deposit may be retired for disability, regardless of age or length of service, and receive a disability retirement allowance under this article based on the service credited to him *or her* at the time of retirement during any period thereafter in which he *or she* receives a disability retirement allowance under the Public Employees' Retirement System or a retirement system established under this chapter in another county, subject to the following conditions:

(1) That ~~such~~ allowance shall not be paid if the period intervening between the last service credited under this system and his *or her* becoming a member in ~~such~~ *the* other system exceeds ~~90 days~~ 36 months.

(2) ~~That if~~ *If* the member is retiring for non-service-connected disability, and, if a safety member has not attained 55 *years of* age 55, or if a nonsafety member has not attained 65 *years of* age 65, his *or her* retirement allowance shall be as calculated pursuant to Section 31838.

(3) That ~~such~~ allowance shall be an annuity ~~which~~ *that* is the actuarial equivalent of the member's accumulated contributions when retirement under the other system is for disability arising out of and in the course of employment subject to ~~such~~ *that* other system.

SEC. 15. Section 31837.1 of the Government Code is repealed.

~~31837.1. Notwithstanding Sections 31837 and 31838, any member covered under Section 31751 who elects, pursuant to~~

1 Sections 31700 and 31832, to leave accumulated contributions on
2 deposit may be retired for disability and receive a disability
3 retirement allowance under this section during any period
4 hereafter in which the member receives a disability retirement
5 allowance under the Public Employees' Retirement System, a
6 retirement system established under this chapter in another
7 county, the State Teachers' Retirement System or a retirement
8 system of any other public agency of the state that has
9 established reciprocity with the Public Employees' Retirement
10 System subject to the conditions of Section 31840.2, subject to
11 all of the following conditions:

12 (a) That such allowance shall not be paid if the period
13 intervening between the last service credited under this system
14 and becoming a member in such other system exceeds six
15 months.

16 (b) That, if the member is retiring for non-service-connected
17 disability, the disability requirements shall be that of the other
18 system and the member's retirement allowance shall be based on
19 the other system's disability benefit formula. The disability
20 benefit received in the county shall be calculated as if all the
21 member's service was in the other system but then prorated using
22 the ratio of service in this county to the total service in both
23 systems.

24 (c) That, if the member is retiring for disability arising out of
25 and in the course of employment subject to such other system,
26 the allowance to the member shall be an annuity which is the
27 actuarial equivalent of the member's accumulated contributions
28 at the time of retirement.

29 SEC. 16. Section 31840.4 of the Government Code is
30 repealed.

31 31840.4. Wherever in this chapter the rights of a member,
32 because of membership in another retirement system, are
33 conditioned upon reemployment within 90 days of termination of
34 employment covered by a system under this chapter or another
35 retirement system, with respect to such reemployment which
36 occurs on and after January 1, 1976, such period shall be six
37 months rather than 90 days.

38 This section shall also be applicable to members who were
39 permanent employees of the state who were laid off because of a
40 reduction in work force and whose break in service between

~~retirement systems occurred prior to January 1, 1976, but not before April 1, 1970.~~

SEC. 17. Section 31840.5 of the Government Code is repealed.

~~31840.5. The provisions of this chapter extending rights to a member of a county retirement system established under this chapter or subjecting him to any limitation, by reason of his membership in the Public Employees' Retirement System shall also apply to members who terminated state employment and became employees of a district within six months of such termination and who were employees of such district at the time that the district became subject to the county retirement system. Any change in a member's contribution rate shall become effective on January 1, 1977, and a member whose rate is reduced shall not be entitled to any payment with respect to his rate of contribution prior to that date.~~

~~This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by majority vote, make the provisions of this section applicable in such county.~~

SEC. 18. Section 31840.6 of the Government Code is repealed.

~~31840.6. Whenever in this chapter the rights of a member, because of membership in another retirement system, are conditioned upon reemployment within six months of termination of membership in a system under this chapter or another retirement system, such period shall be one year rather than six months if the member was an elective officer and becomes a member of a system established under this chapter upon commencement of service in another elective office on and after January 1, 1977.~~

~~This section shall not be applicable in any county until adopted by the board of supervisors nor until the other employer in a reciprocal system elects a similar provision.~~

SEC. 19. Section 31840.7 of the Government Code is repealed.

~~31840.7. Wherever in this chapter the rights of a member, because of membership in another retirement system, are conditioned upon reemployment within a specified period after termination of employment covered by a system under this~~

1 ~~chapter or another retirement system, the period shall be one year~~
2 ~~in the case of any member who was reemployed on or after~~
3 ~~January 1, 1989, and whose termination of employment was due~~
4 ~~to layoff because of, a lack of work, a lack of funds, or a~~
5 ~~reduction in workforce.~~

6 ~~This section shall not be operative in any county until the time~~
7 ~~that the board of supervisors, by resolution adopted by a majority~~
8 ~~vote, makes the provision applicable in that county.~~

O